

UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT  
**CIVIL APPEAL STATEMENT**

Please TYPE. Attach additional pages if necessary.

11th Circuit Docket Number: \_\_\_\_\_

Caption: City of Miami, Defendant-Appellant, V. GRACE, INC.; ENGAGE MIAMI, INC.; SOUTH DADE BRANCH OF THE NAACP; MIAMI-DADE BRANCH OF THE NAACP; CLARICE COOPER; YANELIS VALDES; JARED JOHNSON; AND ALEXANDER CONTRERAS, Plaintiff-Appellee	District and Division: <u>Southern District of Florida (Miami)</u> Name of Judge: <u>K. Michael Moore</u> Nature of Suit: <u>440 Civil Rights: Other</u> Date Complaint Filed: <u>December 15, 2022</u> District Court Docket Number: _____ Date Notice of Appeal Filed: <u>May 10, 2024</u> <input type="checkbox"/> Cross Appeal <input type="checkbox"/> Class Action Has this matter previously been before this court? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If Yes, provide (a) Caption: <u>City of Miami v. Grace, Inc., et al.</u> (b) Citation: <u>23-11854; 23-12472</u> (c) Docket Number: _____
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	Attorney Name	Mailing Address	Telephone, Fax, Email
For Appellant: <input type="checkbox"/> Plaintiff <input checked="" type="checkbox"/> Defendant <input type="checkbox"/> Other (Specify)	GRAY ROBINSON, P.A. Christopher N. Johnson Marlene Quintana Jason Unger George T. Levesque Andy Bardos	333 SE 2nd Avenue, S-3200 Miami, FL 33131  301 S. Bronough Street, S-600 Tallahassee, FL 32301	christopher.johnson@gray-robinson.com marlene.quintana@gray-robinson.com jason.unger@gray-robinson.com george.levesque@gray-robinson.com andy.bardos@gray-robinson.com
For Appellee: <input checked="" type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input type="checkbox"/> Other (Specify)	Daniel B. Tilley Caroline A. McNamara Nicholas L.V. Warren Christopher J. Merken Jocelyn Kirsch Neil A. Steiner	4343 W. Flagler Street, S-400 Miami, FL 33134 336 E. College Ave., S-203 2929 Arch Street Philadelphia, PA 19104 Three Bryant Park 1095 Avenue of the Americas New York, NY 10036	dtilley@aclufl.org cmcnamara@aclufl.org nwarren@aclufl.org christopher.merken@dechert.com jocelyn.kirsch@dechert.com neil.steiner@dechert.com

Please CIRCLE/CHECK/COMPLETE the items below and on page 2 that apply.

Jurisdiction	Nature of Judgment	Type of Order	Relief
<input checked="" type="checkbox"/> Federal Question <input type="checkbox"/> Diversity <input type="checkbox"/> US Plaintiff <input type="checkbox"/> US Defendant	<input type="checkbox"/> Final Judgment, 28 USC 1291 <input checked="" type="checkbox"/> Interlocutory Order, 28 USC 1292(a)(1) <input type="checkbox"/> Interlocutory Order Certified, 28 USC 1292(b) <input type="checkbox"/> Interlocutory Order, Qualified Immunity <input type="checkbox"/> Final Agency Action (Review) <input type="checkbox"/> 54(b)	<input type="checkbox"/> Dismissal/Jurisdiction <input type="checkbox"/> Default Judgment <input type="checkbox"/> Summary Judgment <input type="checkbox"/> Judgment/Bench Trial <input type="checkbox"/> Judgment/Jury Verdict <input type="checkbox"/> Judgment/Directed Verdict/NOV <input checked="" type="checkbox"/> Injunction <input type="checkbox"/> Other _____	Amount Sought by Plaintiff: \$ _____ Amount Sought by Defendant: \$ _____ Awarded: \$ _____ to _____ Injunctions: <input type="checkbox"/> TRO <input checked="" type="checkbox"/> Preliminary <input checked="" type="checkbox"/> Permanent <input checked="" type="checkbox"/> Granted <input type="checkbox"/> Denied

Based on your present knowledge:

- (1) Does this appeal involve a question of First Impression? ☒ Yes ☐ No  
 What is the issue you claim is one of First Impression? Whether a governmental entity may be required to draw a Voting Rights Act protected District, but still have to set the Voting Age Population for the protected class at less than 50%.
- (2) Will the determination of this appeal turn on the interpretation or application of a particular case or statute? ☒ Yes ☐ No

If Yes, provide

- (a) Case Name/Statute Negron v. City of Miami Beach  
 (b) Citation 113 F.3d 1563  
 (c) Docket Number if unreported \_\_\_\_\_

- (3) Is there any case now pending or about to be brought before this court or any other court or administrative agency that
- (a) Arises from substantially the same case or controversy as this appeal? ☒ Yes ☐ No  
 (b) Involves an issue that is substantially the same, similar, or related to an issue in this appeal? ☒ Yes ☐ No

If Yes, provide

- (a) Case Name City of Miami v. Grace, Inc., et al.  
 (b) Citation 23-12472  
 (c) Docket Number if unreported \_\_\_\_\_  
 (d) Court or Agency U.S. Court of Appeal for the Eleventh Circuit

- (4) Will this appeal involve a conflict of law
- (a) Within the Eleventh Circuit? ☐ Yes ☒ No  
 (b) Among circuits? ☐ Yes ☒ No

If Yes, explain briefly:

- (5) Issues proposed to be raised on appeal, including jurisdictional challenges:  
 Whether a governmental entity may be required to draw a Voting Rights Act protected District, but still have to set the Voting Age Population for the protected class at less than 50%.  
 Whether 50.3% Voting Age Population is sufficiently narrowly tailored to meet the strict scrutiny standard articulated in *Bethune-Hill v. Va. State Bd. of Elections* (Bethune-Hill), 580 U.S. 178, 195-96 (2017) standard.  
 Whether *Negron v. City of Miami Beach*, 114 F.3d 1563, 1569 (11th Cir. 1997) requires a governmental entity to set the population of Voting Rights Act protected District using Citizen Voting Age Population.  
 Whether the District Court failed to consider Plaintiffs' alternative maps, which did not produce significantly greater racial balance.  
 Whether the District Court failed to account for the functional analysis performed by the City's consultant's both prior to and subsequent to enacting the redistricting plans at issue.  
 Whether the District Court erred by not finding that significant numbers of voters were not placed in any district because of their race.  
 Whether there was evidence supporting the District Court's finding that the original districts were racially gerrymandered at inception.  
 Whether the District Court erred in not finding that districting choices were based upon core retention.

I CERTIFY THAT I SERVED THIS CIVIL APPEAL STATEMENT ON THE CLERK OF THE U.S. COURT OF APPEALS FOR THE ELEVENTH CIRCUIT AND

SERVED A COPY ON EACH PARTY OR THEIR COUNSEL OF RECORD, THIS 29 DAY OF May, 2024.

Christopher N. Johnson

NAME OF COUNSEL (Print)

  
 SIGNATURE OF COUNSEL